

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 1151 of 2004(K)

PETITIONER:

**1. GOVINDAN NAIR,
MELEMADATHIL VEEDU, CHULLOOR P.O.,
R.E.C. (VIA), KOZHIKODE.**

**2. P.KELU,
PONPARAKKAL VEEDU, CHULLOOR P.O.,
NIT (VIA), KOZHIKODE.**

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS:

**1. CHATHAMANGALAM GRAMA PANCHAYATH,
REP. BY ITS SECRETARY, CHATHAMANGALAM, KOZHIKODE.**

2. DISTRICT COLLECTOR, KOZHIKODE.

**3. EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT (ROAD), KOZHIKODE.**

**4. STATE OF KERALA,
REP. BY ITS SECRETARY, LOCAL & SELF DEPARTMENT,
THIRUVANANTHAPURAM.**

**BY GOVERNMENT PLEADER SHRI BASANT BALAJI R2 TO R4
BY ADVOCATE SHRI THOMAS ANTONY R1**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P(C) NO. 1151 OF 2004

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 A COPY OF THE NOTICE ISSUED BY THE ADDITIONAL TALUK SURVEYOR, KUNNAMANGALAM TO THE 1ST PETITIONER DATED 24.11.1999.

EXHIBIT P2 A COPY OF DECISION NO.40 DATED 28.6.2000 OF THE FIRST RESPONDENT PANCHAYAT.

EXHIBIT P3 A COPY OF THE REPRESENTATION SUBMITTED BY THE FIRST PETITIONER TO THE FIRST RESPONDENT PANCHAYAT.

EXHIBIT P4 A COPY OF THE REPRESENTATION SUBMITTED BY THE FIRST PETITIONER TO THE LOCAL MLA DATED 7.9.2001.

EXHIBIT P5 A COPY OF THE LAWYER NOTICE SENT BY THE FIRST PETITIONER TO THE FIRST RESPONDENT DATED 18.11.2001.

EXHIBIT P6 A COPY OF THE REPRESENTATION SUBMITTED BY THE FIRST PETITIONER TO THE FIRST RESPONDENT PANCHAYAT DATED 18.5.2002.

EXHIBIT P7 A COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS AND OTHERS TO THE FIRST RESPONDENT PANCHAYAT DATED 9.9.2002.

EXHIBIT P8 A COPY OF THE REPRESENTATION SUBMITTED BY THE FIRST PETITIONER TO THE FIRST RESPONDENT PANCHAYAT DATED 12.12.2002.

EXHIBIT P9 A COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER TO THE SECOND RESPONDENT DATED 6.3.2003.

EXHIBIT P10 A COPY OF THE ORDER NO.N1/9998/03 OF THE SECOND RESPONDENT DATED 24.7.2003.

EXHIBIT P11 A COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONERS AND OTHERS BEFORE THE HONOURABLE OMBUDSMAN DATED 18.10.2003.

EXHIBIT P12 A COPY OF THE PUBLIC NOTICE.

**EXHIBIT P13 A COPY OF THE DECISION DATED 24.01.2001 OF
THE PANCHAYAT.**

RESPONDENTS' EXHIBITS:

**EXHIBIT R1(a) TRUE COPY OF THE DECISION OF THE 1ST
RESPONDENT PANCHAYAT BEARING NO.123(1) DATED 20.9.1990.**

K. PADMANABHAN NAIR ,J.

W.P.(C) No.1151 of 2004 K

Dated, this the 6th day of November, 2007

JUDGMENT

The grievance of the petitioners is that a portion of their land was taken possession by the local authority and surrendered to Public Works Department for the purpose of widening of an existing lane. It is also their case that they were promised that they will be given compensation but subsequently the authorities turned around and contended that the petitioners are not entitled to get any compensation. Petitioners placed reliance on Ext.P1 notice dated 24.11.1999 issued by the Additional Taluk Surveyor and Ext.P2 resolution passed by the first respondent Panchayat on 28.6.2000. Ext.P1 has no connection with any land acquisition proceedings. It was issued under the provisions of Survey and Boundaries Act. But in Ext.P2 in decision No.40 there was a specific reference to the names of both the petitioners and there was an admission made by the Panchayat that these two petitioners surrendered certain land for widening the road. It was also admitted that the extent of that land is to be determined by the revenue authorities and the compensation due to them also is to be fixed. Thereafter the petitioners were filing petitions after petitions. On 24.7.2003 the second respondent informed the first petitioner that the Panchayat Committee never took a decision to take over the land belonging to him and as such he is not

entitled to get any compensation from the Panchayat. According to the petitioners it is a false statement in view of the statements made in Ext.P2. Then the Committee has taken a decision to pay compensation to the petitioners. So the information conveyed to the second respondent by the subsequent Panchayat Committee was a false one.

2. Now the stand taken by the first respondent was that properties owned by the petitioners were surrendered as early as in the year 1990 free of cost. From the facts of this case it is evidently clear that the Panchayat is suppressing material facts. In case Panchayat is not prepared to pay reasonable compensation petitioners are at liberty to work out their remedies before the competent Civil Court for recovery of land taken from their possession in accordance with law. It is only just and proper that the District Collector once again considers the representations made by the petitioners and take a decision after hearing the petitioners and Secretary of the Panchayat. For that purpose Ext.P10 order dated 24.7.2003 is to be quashed.

In the result, Ext.P10 order issued by the second respondent District Collector to the first petitioner is hereby quashed. The District Collector is directed to reconsider the representations submitted by the petitioners after affording an opportunity to the petitioners as well as the Secretary of the Panchayat and take a decision afresh in accordance with law and communicate the same to the petitioners as expeditiously as possible, at any rate, within a period of three

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months from the date of receipt of a copy of this judgment.

**K. PADMANABHAN NAIR,
JUDGE.**

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